



## **DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS**

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### **Testimony of Juan Carlos Zarate, Assistant Secretary Terrorist Financing and Financial Crimes U.S. Department of the Treasury**

#### **Before the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs**

Chairman Coleman, Ranking Minority Member Levin, and distinguished Members of the Permanent Subcommittee on Investigations, thank you for inviting me to testify today about allegations of fraud pertaining to the United Nations Oil-For-Food Program (OFF), and the U.S. government's continuing efforts to identify, freeze and repatriate Iraqi assets around the world. In part, my testimony today builds upon my March 18, 2004 testimony before the House Committee on Financial Services, Subcommittee on Oversight and Investigations. I am attaching this prior testimony to my statement today, and request that it be admitted into the record of this hearing.

Since Secretary Snow's call to engage in a worldwide hunt to find and repatriate stolen Iraqi assets to the Iraqi people in March 2003, the Treasury Department and the entire U.S. government have worked intensely to do just that. In the process of facilitating the finding and freezing of nearly \$6 billion in Iraqi assets outside of Iraq, the return of over \$2.7 billion of that, and the recovery of over \$1 billion in cash inside Iraq, we have seen and uncovered the vast corruption of the sanctions regime by Saddam Hussein. The scandal now surrounding the corruption of the economic sanctions on Iraq and the Oil-For-Food Program was the direct result of the treachery and thievery of Saddam Hussein, his sons, and his regime. It was Saddam Hussein who transformed the goodwill of the international community and the international humanitarian effort represented in the OFF Program into a global criminal enterprise. Although there may be many who engaged in sanctions busting and OFF-related kickbacks and schemes, such enterprises were the making of a malevolent Saddam Hussein and his regime.

As Mr. Duelfer noted during his October 2004 testimony before the Senate Armed Services Committee, “After the 1991 war, Saddam established as his prime objective (after survival) the termination of UN sanctions on Iraq, and he weighed all policy actions and steps for their impact on this overarching objective.” And, “the steps the Regime took to erode sanctions are obvious in the analysis of how revenues, particularly those derived from OFF, were used.”

One of Mr. Duelfer’s main points in his reports was to say, “Although Saddam had reluctantly accepted OFF by 1996, he soon recognized its economic value and additional opportunities for further manipulation and influence of the UNSC Iraq 661 Sanctions Committee member states.”

In essence then, the Hussein regime created an ongoing system to milk the international sanctions regime of all of the potential value and profits, while his people suffered the consequences. In this sense, as well, he used the implements of the State – the Central Bank, commercial enterprises, and his diplomatic and intelligence assets – to help skirt international restrictions and bring profit to his regime.

The challenge still before us is to help the Iraqi Interim Government and the Iraqi people recover those assets that have yet to be returned to them. Just as important is the need for us to continue to search for assets that we have not yet identified or frozen, since unattended assets could very well be used to fuel the insurgency or terrorist attacks against our soldiers, our Coalition partners, and innocent civilians.

The testimony below provides an overview of our continuing international and interagency mission to recover and repatriate assets looted by the prior regime, in addition to a sense of how the former regime’s systematic pilfering of OFF may be funding the Iraqi insurgency and may have assisted Saddam Hussein’s efforts to acquire illicit military equipment. Finally, the testimony lays out the continuing Iraqi asset recovery mission, efforts to combat insurgency financing, and how we can reduce the likelihood of another OFF-type scandal in the future.

### **The Iraqi Asset Recovery Mission**

Since March 2003, the U.S. government has focused on the need to find, freeze, and repatriate Iraqi assets from around the world – as well as to find cash and assets within Iraq that were stolen and hidden by elements of the former Hussein regime.

The identification, freezing, and transfer of Iraqi assets remains a priority for this Administration for several reasons. It is critical that the Iraqi people have access to funds that are rightfully theirs – so that they can rebuild a country burdened by a dictator’s decades of neglect. This is also essential to prevent any such former regime assets from being used to fund the Iraqi insurgency and to keep them out of the hands of terrorists both within and outside Iraq. The international community cannot permit these assets to be used against our troops, coalition partners, and innocent civilians in Iraq, or potentially to support the nefarious activities of terrorists around the world.

Moreover, the efforts of the international community to identify and repatriate assets stolen by Saddam Hussein and his former regime serve as a strong warning to other tyrants and

kleptocrats, who might seek to loot their countries and hide the stolen assets in the international financial system. Lessons learned by the U.S. and the international community in the hunt for Iraqi assets will serve as a model, both for the U.S. Government and for the international community, on how to respond and identify, trace, freeze, and repatriate national patrimony stolen by corrupt despots in the future.

With the June 28, 2004 transfer of sovereignty to Iraq and the establishment of the Iraqi Interim Government (IIG), our efforts to identify and repatriate Hussein-related assets underwent an important transformation. While our asset recovery efforts continue, the primary lead for much of the Iraqi asset recovery has now passed to the IIG, with U.S. and international assistance. U.S. government efforts are now concentrated on supporting those efforts to identify, freeze, and repatriate looted Iraqi assets that have been concealed in the international financial system behind a maze of front companies and straw men. Our ability to view the success of our international efforts to obtain asset transfers is somewhat limited post-transition given control by the IIG of access to information related to the Development Fund for Iraq.

### **U.S. Leadership in the Asset Hunt**

From the beginning, under the President's leadership, the U.S. took the world-wide lead in trying to locate and recover Iraqi assets for the reconstruction of Iraq and the benefit of the Iraqi people. Our efforts to identify and recover Iraqi assets targeted three basic groups of assets:

- Assets frozen in 1990 under UNSCR 661 that are subject to freeze and transfer under UNSCR 1483, as well as additional Iraqi assets covered by 1483;
- Assets that exist in the countries that did business with Iraq either legally or illegally under the UN sanctions regime in place before March 2003 (called "trading states") — Jordan, Lebanon, Syria, and Turkey;
- Assets looted and hidden outside Iraq by Saddam Hussein and senior members of his former regime, their immediate families, agents, and front companies.

Identifying, tracing, and recovering these funds involves numerous tools – investigatory, diplomatic, and intelligence. The variety of these tools, and the respective expertise of the different departments and agencies in employing them, has required close interagency collaboration. And indeed, our mission, though daunting and complicated, has achieved success, due in large part to the unprecedented interagency cooperation and coordination of all components of the U.S. Government. I am pleased to have this opportunity to share with you the cooperation we have received from our colleagues in other agencies, and the dedication and bravery of our financial investigators and staff in Baghdad, who have placed themselves in harm's way to accomplish this very complex mission.

### **Saddam Hussein's Abuse and Avoidance of International Sanctions**

Saddam Hussein's regime used a variety of ways to enrich itself with pleasure palaces, expensive cars, and armaments at the expense of the Iraqi people. Our work has helped crystallize how this was done and provided leads for possibly finding and returning some of those funds to the Iraqi people.

## *Uncovering Hussein-Era Smuggling, Kickback, and Skimming Schemes*

Treasury's financial investigation and analysis has helped us develop a better understanding of some of the schemes that Saddam Hussein and his regime used to raise and launder illicit assets, in violation of the UN's Iraqi sanctions regime.

Although we do not know the full universe of Iraqi assets amassed by Saddam Hussein and the former government of Iraq in violation of UN sanctions, our financial investigation and analysis to date indicate that the former regime generated significant revenues from a complex web of financial activities. These activities included kickbacks and skimming funds from the OFF program, as well as oil smuggling outside the OFF program.

A May 2002 GAO report "conservatively" estimates that from 1997 to 2001, the Hussein regime obtained \$6.6 billion from oil smuggling and kickbacks from UN-sanctioned oil sales alone. As Mr. Duelfer noted in the Key Findings of his report, the former Iraqi regime used "illicit revenue streams" to amass "more than \$11 billion from the early 1990's . . . ."

The following is a summary of the types of schemes the Hussein regime used to avoid the international sanctions regime and to take advantage of the OFF Program.

### *Unauthorized Surcharge on OFF Oil Sales*

In response to Iraq's invasion of Kuwait in August, 1990, the United Nations Security Council imposed sanctions on Iraq that prohibited virtually all commercial transactions with Iraq and required Member States to freeze Iraqi assets. In 1995, building upon previous humanitarian exceptions to the UN sanctions regime, the Security Council further responded to the plight of the Iraqi people by creating the OFF program, which authorized Iraq to sell oil under UN supervision and use the proceeds to purchase goods for the humanitarian needs of Iraqi citizens.

The Hussein regime abused this program to generate illicit revenues by instituting a surcharge scheme on OFF oil sales, beginning in the late 1990s. Pursuant to this scheme, Iraq would charge an extra 10 to 35 cents per barrel "surcharge" on Iraqi oil sales transacted under the OFF program. The size of the "surcharge" varied with the oil shipment's destination. After this became known in late 2000, the U.S. and UK thwarted further surcharges by requiring "retroactive pricing" of Iraqi oil, ensuring that the actual price paid was close to market price. Before the surcharges ended, however, money reportedly was accumulated at Iraqi embassies or deposited into bank accounts in various jurisdictions, and later withdrawn in the form of cash. This cash was then transported back to Iraq and reportedly deposited into the Central Bank of Iraq.

Some of the cash generated by this kickback scheme was not repatriated to Iraq, but instead was used to buy military equipment and other goods prohibited by international sanctions, without the knowledge of the UN.

### *After Sale Service Fee Scheme*

The “after sale service fee” scheme involved kickbacks generated from Iraqi purchases of goods authorized under the OFF program. Under the OFF program, proceeds from official OFF Iraqi oil sales were deposited in a designated UN account, to be used for humanitarian purposes, such as purchasing food and medical supplies for the Iraqi people. To circumvent the restrictions on purchases and generate additional illicit revenue, the Iraqi government ordered each of its ministries to institute a 10% kickback scheme. Vendors selling goods to the Iraqi government were required to inflate the contractual purchase price typically by 10% and kick back the excess charge to the Iraqi government. Thus, a vendor would submit records to the UN indicating that it was selling \$110 worth of goods to Iraq, when in fact the vendor was selling only \$100 worth of goods, and was returning the additional \$10 to Iraq as a kickback. The illicit funds generated by this scheme reportedly were handled similarly to the oil price surcharges, and were either repatriated as cash to Iraq or used to buy goods in violation of UN sanctions. After Iraqi ministries began cooperating with the former CPA, a process was instituted to renegotiate these contracts, with a view of eliminating kickbacks.

### *Trade Protocol Funds*

A third scheme involved the sale of oil in violation of UN sanctions under “trade protocols” with neighboring countries. Beginning in the early 1990s, the former Iraqi government entered into signed official agreements with Jordan, Turkey, and Syria to sell Iraqi oil to each of these countries outside the OFF Program and precursor international sanctions. In each country, the proceeds of the oil sales were split between a trade account and a cash account. Most of the funds (60%-75%) were placed in the “trade account.”

Under the trade protocols, the Iraqi government was required to use the money in the trade account to purchase goods from vendors and businesses in the particular protocol-partner country. The money from the cash account (25%-40% of oil sale proceeds) in each of the protocol countries was transferred to bank accounts in Jordan and Lebanon -- usually through bank accounts set up in the names of front companies or individuals, to further disguise the scheme and the movement of the funds. Eventually, the cash account funds generated under all of the protocols were deposited in bank accounts controlled by the Central Bank of Iraq, Rasheed Bank, or Rafidain Bank. After this, the money was withdrawn in the form of cash and transported back to Iraq. When the money reached Baghdad, it was deposited into the vault at the Central Bank of Iraq.

We are using the information about the oil smuggling, kickback, and skimming schemes developed by our investigation to better identify and trace Iraqi assets in several jurisdictions. For example, in one neighbouring country, we have examined 68 accounts of 16 front companies involved in the trade protocol skimming scheme, and are seeking to trace the flow of this money.

Understanding these enrichment schemes used by the Hussein regime to enrich itself provides not only leads, but also a clear case study as to how a notorious regime will go about abusing the goodwill of the international community to enrich and embolden itself.

## *Front Companies*

We know that the Hussein regime relied on front companies that it secretly owned or controlled to engage in illegal commerce and to move funds outside of the gaze of the international community. The assets of front companies are subject to freezing and transfer to DFI under UNSCR 1483, Paragraph 23. Our investigation has identified front companies involved in transactions under the trade protocols, as well as other commercial activities. We have designated many such front companies used by the regime to engage in commercial activity.

## **OFF-Related Funds and Acquisition of Illicit Military Goods**

This Subcommittee has asked that I address the extent to which the OFF Program was allegedly used by Saddam Hussein to obtain funds for prohibited transactions to purchase military equipment and other goods prohibited under UN sanctions. Treasury and U.S. government investigations, including the Duelfer Report, have concluded that Saddam Hussein and regime elements did, in fact, seek to abuse OFF in order to obtain illicit military equipment.

As noted in the Duelfer Report, “The steps the Regime took to erode sanctions are obvious in the analysis of how revenues, particularly those derived from the Oil-for-Food program, were used. Over time, sanctions had steadily weakened to the point where Iraq, in 2000-2001 was confidently designing missiles around components that could only be obtained outside sanctions.”

Clearly, Saddam Hussein and his cronies endeavored to abuse the OFF program to the best of their abilities. It is nonetheless worthwhile to note the aggressive U.S. government reaction to stanch further abuses by remaining regime criminals. Following are three examples of Treasury actions to designate, under EO 13315 and the UNSCR 1483, regime elements that illegally abused OFF and engaged in other illegal activity to obtain illicit military materiel. These designations occurred on April 15, 2004, and have been adopted by the UN.

- **AL-WASEL AND BABEL GENERAL TRADING LLC**

Information available to the U.S. indicates Al Wasel and Babel was controlled by, and acted for or on behalf of, senior officials of the former Iraqi regime, including Iraqi Deputy Prime Minister and Finance Minister Hikmat Mizban Ibrahim al-Azzawi. Al-Azzawi has been named by the United Nations as a senior official of the former Iraq regime on the list established pursuant to UNSCR 1483.

Much of this information was developed during an investigation by U.S. authorities on Al Wasel and Babel’s attempts to procure a sophisticated surface-to-air missile system for Iraq. Other information developed by the U.S. Government indicates Al Wasel and Babel played a key role in the former Iraqi regime’s schemes to obtain illicit kickbacks on goods purchased through the U.N. Oil-for-Food (OFF) Program.

- **AL-ARABI TRADING COMPANY**

Al-Arabi is the ultimate holding company for a variety of Iraqi front companies that engaged in military procurement for the former regime. Al-Arabi owns 99 percent of the UK-incorporated company Technology and Development Group Limited (TDG), which in turn owns TMG Engineering Limited. TDG and TMG were involved in Iraq's arms procurement network during the late 1980s.

- **AL-BASHAIR TRADING COMPANY**

Al-Bashair, directed by Munir Al-Qubaysi, reportedly acted as the largest of Iraq's arms procurement front companies and was involved in a range of sanctions busting and corruption schemes on behalf of the regime. Al-Bashair reported directly to the Organization of Military Industrialization, which was responsible for Iraq's military procurement programs and was headed by former Deputy Prime Minister Abd-al-Tawab Mullah Huwaysh. Huwaysh has been named by the U.N. as a senior official of the former Iraq regime on the list established pursuant to UNSCR 1483.

Reporting based on documents removed from Al-Bashair's headquarters describes a variety of deals involving sham contracts, kickbacks, falsified export documentation and money laundering designed to deceive U.N. inspectors and deliver, among other things, missile components, surveillance equipment and tank barrels to the former Iraqi regime. The company also allegedly helped senior officials of the former regime launder and hide Iraqi government funds.

Unfortunately, it is not possible to know how much of the funds from illicit activities can be recouped by further U.S. government, Iraqi, and international efforts. Nevertheless, the United States government, working with the IIG and its successor, intends to continue its mission to identify and recoup hidden funds with all the tools at our disposal -- which include freezing actions, designations, and providing enhanced assistance to the Iraqis in their forensic accounting and asset investigatory efforts.

### **Important Progress to Date**

We have achieved important success in returning assets to the Iraqi people and in unearthing the schemes and networks used by the regime to steal from Iraq.

- Since March 20, 2003, with U.S. leadership, over \$2 billion of Iraqi assets have been newly identified and frozen outside the U.S. and Iraq.
- Since March 20, 2003, approximately \$847 million have been transferred by other countries to the Development Fund for Iraq (DFI). In total, the U.S., foreign countries, and the Bank for International Settlements have transferred back to Iraq over \$2.7 billion in frozen Iraqi funds;
- Approximately \$1.3 billion in cash and valuables has been recovered in Iraq.
- We continue to identify key individuals and entities who acted as operatives for Saddam Hussein. As of today, the Department of the Treasury has designated 30 immediate

family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315. The U.S. has submitted these individuals, as well as the identities of 191 Iraqi parastatal (quasi-government) entities, to the United Nations, and requested that they be listed by the UN 1518 Committee under UNSCR 1483. The 1518 Committee added these submissions to a list of senior Iraqi officials and entities that we previously joined with the UK and France in submitting to the UN for listing under UNSCR 1483;

- In Iraq, our financial investigators have conducted over 85 interviews of key individuals who have information relating to Iraqi assets or possible insurgency financing, ranging from the top ministers of the State Oil Marketing Organization (SOMO), to the laborers who buried Saddam's U.S. currency. Our investigators continue to seek out and interrogate key financial facilitators like accountants and bankers, who have knowledge about the movement of Iraqi assets within and outside of Iraq. Under IRS-CI questioning, these witnesses have identified assets that can be recovered for the new Iraqi government. We aggressively pursue any leads in tandem with the IIG.
- In Iraq, we are working closely with the Department of Defense, the Federal Reserve Board, and the Bureau of Engraving and Printing to trace U.S. currency seized in Iraq, in order to determine the flow of funds that may support the insurgency.
- Our designation of Wasel and Babel as an Iraqi front company, and successful submission of this name to the United Nations for listing under UNSCR 1483, resulted in the UAE taking action against Wasel and Babel and freezing its assets.
- While searching for Iraqi assets abroad, IRS-CI agents determined that the former Iraqi Ambassador to Russia had stolen \$4 million in Iraqi assets that had been entrusted to him. As a result, that amount has been frozen in Russia, and we are working with the Iraqis and Russians to have it repatriated. On August 2, 2004, we designated this Ambassador under EO 13315, and submitted his name to the United Nations 1518 Committee.
- While continuing to work closely with the governments of Liechtenstein, Switzerland, and Jordan, we have taken aggressive action to recover one of Saddam's Falcon 50 corporate jets and to uncover a financial network that had been used by the Iraqis to move money and people in the heart of Europe. As a direct result of these efforts, this former symbol of the Hussein regime will be returned to the Iraqi people. This past week, the Falcon 50 was released from Jordan, and flown to Switzerland for refitting.
- The financial investigation teams also uncovered important leads for other IRS-CI financial investigations that have been pursued in jurisdictions outside Iraq. We identified bank accounts and other assets held in over twenty countries, including Switzerland, France, Germany, Liechtenstein, Russia, Spain, Egypt, Thailand, Indonesia, Lebanon, Belarus, Iran, South Korea, Malaysia, Japan, Morocco, Saudi Arabia, UAE, British Virgin Islands, Jordan, Syria and Yemen. We will work with the IIG to ensure that these assets are accounted for and returned to the Iraqi people.
- As I previously testified, as a result of interagency cooperation and investigative and other efforts in Baghdad and at Headquarters, the Departments of Treasury and State have provided identifying information on over 570 identified Iraqi bank accounts in 41 countries for review and follow-up. Those accounts were identified as belonging to the Central Bank of Iraq, Rafidain Bank, and Rasheed Bank. Again, we are working with the IIG to pursue these accounts.

We continue to devote resources to this effort:

### *Treasury Resources Dedicated to the Mission*

- As of November 2004, an IRS attaché has been stationed at the US embassy in Baghdad. He is following up on designations of former regime individuals and entities, coordinating the U.S. and Iraqi government efforts to identify and recover assets both inside and outside Iraq, uncover new front companies and pursue all possible financial leads involving the ongoing insurgency in Iraq.
- IRS-CI Agents, embedded with the U.S. military in Baghdad, are working to counter insurgency financing, as well as continue to seek out information concerning former regime assets. As the Department of Defense identifies financially related information, the IRS personnel are integrated into the process of delivering relevant information to competent authorities for appropriate handling. In addition, the IRS Agents are helping to train their Iraqi counterparts – so that over time, the Iraqis can carry out their own independent financial investigations.
- In addition to the IRS attaché, a Department of Treasury attaché has also been assigned to the U.S. embassy in Baghdad. The Treasury attaché coordinates activities, along with the IRS attaché and their Iraqi counterparts, to find hidden assets from the former Hussein regime that may still be in the country. They are also helping the Iraqis craft a legal regime that can further catalyze the process of confiscating assets from the former regime.
- Treasury personnel continue to work closely with the military, especially where bulk U.S. currency is identified. The military passes relevant financial information back to the Federal Reserve Board of Governors and the Bureau of Engraving and Printing, in order to trace the flow and source of specific funds.
- An Office of Foreign Assets Control (OFAC) Analyst has been stationed at CENTCOM in Tampa, Florida to work closely with military personnel on insurgency financing matters.

### **International Cooperation and Challenges**

#### *The United Nations Role in the Asset Recovery Process*

The United Nations has played an important role in the Iraqi asset recovery process. UNSCRs 1483 and 1546 require all member countries to identify, freeze, and promptly transfer to the Development Fund for Iraq (DFI) Iraqi assets in their jurisdictions, including assets held in the name of the Iraqi government, and assets held by or on behalf of Saddam Hussein, his regime cronies and their immediate family members, front companies, or agents. The United Nations' 1518 Committee is responsible for implementing these UNSCRs and is responsible for maintaining the international list of individuals and entities whose assets are covered by the freeze and transfer requirements of UNSCRs 1483 and 1546.

UN designations are an important tool in the Iraqi asset investigation. UN designations facilitate international cooperation with our own investigatory efforts to identify Iraqi assets located in other countries, and prod the international community to identify, freeze, and transfer Iraqi assets

in their jurisdictions. To date, the U.S. has submitted the names of 232 Iraqi-related entities and individuals, comprised of 191 parastatals (quasi-government entities), 30 individuals, and 11 front companies, to the United Nations, with the request that they be listed under UNSCR 1483 by the 1518 Committee. To date, the UN 1518 Committee has adopted 228 of these submitted names, including 191 parastatals, 27 individuals, and 10 front companies.

The UN 1518 Committee has not yet designated the names of three individuals and a front company that the U.S., along with the U.K and the Interim Government of Iraq, submitted to the 1518 Committee on August 2, 2004. The names proposed for designation on August 2 included two former Iraqi ambassadors, one of which is the former Iraqi ambassador to Russia I referenced already, who used their senior positions to engage in a variety of illicit activities, ranging from financing foreign anti-Coalition fighters during Operation Iraqi Freedom, to the embezzlement of regime funds.

The proposed designations also included a Bangkok-based company serving as a front for the Iraqi Intelligence Service (IIS) during the former regime, along with its owner and director, a former IIS officer suspected of planning attacks in January 2003, against U.S. citizens in Thailand. The UN 1518 Committee has not yet adopted these names because Russia has placed a hold on them and prevented Committee action. The Departments of State and of the Treasury have been working diligently to convince Russia to lift its hold. We hope that the UN designations will spur other countries to undertake independent investigations, publish similar listings, and return Iraqi funds to the DFI, consistent with the requirements of UNSCRs 1483 and 1546.

Indeed, as a direct result of UN designations, Switzerland has frozen and is in the process of transferring \$140 million in Iraqi assets held by designated front companies and individuals, and the UAE has taken action against Wasel and Babel, a designated front company.

European and other governments have stated that they have been hampered in implementing UNSCR 1483, which calls for the identification of Iraqi-related accounts and blocking and return of assets, because under their domestic laws, nations cannot freeze assets in the absence of a specific listing of individuals and entities at the United Nations. We therefore will continue to submit names to the UN for listing as a way of helping other countries fulfill their obligations to identify, freeze, and transfer Iraqi assets. The listings to date are not intended to be exhaustive, and we will work with the IIG to identify additional individuals and entities for US designation and UN listing.

I would like to re-emphasize, however, that the U.S. strongly believes that, while U.N. listing is helpful, UNSCRs 1483 and 1546 require member states to freeze and transfer all covered assets, independent of whether they have been identified by the UN. This is an ongoing UN obligation, and one which the Iraqis themselves are beginning to promote.

### *The General International Effort*

Although we have made great progress in identifying, freezing, and transferring Iraqi assets to the DFI, largely with the help of allies abroad, there is still much to do. As indicated above,

since March 20, 2003, over \$2.7 billion of Iraqi assets have been identified and frozen outside the U.S. and Iraq. The U.S. has led the effort to prompt the identification and return of frozen Iraqi funds around the world, resulting in approximately \$847 million dollars being transferred by other countries to the DFI. Ten foreign countries are confirmed to have transferred amounts into the DFI, and more have pledged to do so. For example, as of the June 28 transition, Japan had transferred \$98.1 million; the United Kingdom had transferred \$186.8 million; Jordan had transferred \$250 million; and Tunisia had transferred \$8 million. With the help of other countries, and in tandem with the IIG, we hope to uncover additional accounts and identify numerous companies and individuals who were part of the regime's financial web. Even willing countries, however, face challenges to freezing and repatriating Iraqi assets:

- *Sanctions Implementation.* The lack of a defined government agency in most countries that administers sanctions in a focused, long term manner has led to less organized efforts in these countries. In addition, a poor accounting of what Iraqi assets existed in countries around the world and the shifting nature of some of those accounts presented problems of accounting at the outset of our global efforts. These factors, in combination in certain instances with less developed financial systems, makes locating and securing assets more problematic than in the U.S.
- *Legal Difficulties.* Countries have legal problems with taking title to property and immediately repatriating it to Iraq. The mechanism and obligation established in UNSCR 1483 to dealing with Iraqi assets represents a novel, aggressive approach to immediate repatriation of assets under international law. As a result, some countries are in the process of examining what legal measures exist or need to be created within their domestic systems to enable them to comply fully with the requirements of 1483. Other countries are determining what processes need to be put in place to transfer Iraqi assets. We are working with governments around the world and the Iraqis to find legally viable ways to transfer funds to the DFI.
- *Claims.* In some jurisdictions, the existence of extensive third party claims on Iraqi money has complicated asset recovery. Under UNSCR 1483, countries are obligated to return the funds unless such funds are themselves the subject of a lien or judgment that predated the Resolution. While this novel legal mechanism is intended to forestall adjudication of unperfected legal claims until a later date, some countries have insisted on addressing what we consider to be unperfected commercial and other claims against Iraqi funds in their banking systems as a condition of transferring assets to the DFI. We have been working with the Iraqis and various countries to try to resolve these issues and maximize the amount of money transferred to the DFI.

As with all of these efforts, international outreach and diplomatic troubleshooting are ongoing throughout the world. We are continuing to work with our partners abroad to obtain the return of previously identified Iraqi funds and to identify suspect Iraqi accounts.

### **Interagency Cooperation**

The complex challenge of uncovering the trail of Iraqi assets demands that all relevant government agencies work together in a comprehensive and coordinated manner, and share and

enhance information obtained from whatever source. That is precisely what we have been doing, and will continue to do.

In particular, we have established two interagency mechanisms that serve as a model for interagency coordination — the Iraqi Asset Working Group and the DIAC Fusion Center.

#### *Iraqi Asset Working Group*

The interagency Iraqi Asset Working Group (IAWG), which I chair, includes Treasury components – my Office (Terrorist Financing and Intelligence (TFI)), IRS-CI, OFAC, and FinCEN; the Departments of State, including USUN; Justice, including the FBI; Defense; Homeland Security; the intelligence community and the NSC. The Iraqi Asset Working Group brings the unique expertise of each of these agencies and departments to bear on the hunt for Iraqi assets, as well as on the sources and movements of funds for the Iraqi insurgency. The group oversees and coordinates the U.S. Government’s international search for Iraqi assets, and also helps coordinate insurgency funding efforts.

Among other things, we set priorities for the international forensic investigations, direct financial investigation teams to various jurisdictions, set priorities for diplomatic outreach, discuss and analyze possible UN and domestic designations under EO 13315 and UNSCR 1483 of Iraq-related individuals and entities, and help coordinate activities among former CPA and Iraqi officials to facilitate action by the Iraqis to transfer assets to the DFI. The IAWG has proven to be an efficient and highly effective means for handling issues as they arise. It has allowed us to closely monitor investigative and diplomatic developments, track our progress, and determine our next steps by group consensus. And of course, it provides an ideal mechanism for efficiently sharing relevant information across the U.S. Government.

In addition to our regular weekly meetings, the inter-agency group communicates extensively and intensively. We draft and clear papers and cables together, target assets and jurisdictions for investigation, help investigation teams obtain required military training and deployed, share intelligence, diplomatic, and investigatory information, and otherwise conduct the business of the group in a detailed and collegial way.

#### *Financial Component at DIAC Fusion Center*

In addition to the Iraqi Asset Working Group, Treasury and the Defense Department have established a financial intelligence and investigation component at the Fusion Center at the Defense Intelligence Analysis Center at Bolling Air Force Base. The financial component is staffed primarily by IRS-CI agents, and operates under the auspices of the Iraq Survey Group. The Fusion Center receives intelligence information and investigative leads obtained in Iraq and other foreign jurisdictions relating to Iraqi assets and Iraqi insurgency financing.

This information is centralized, analyzed, and shared with all relevant intelligence and law enforcement entities. Leads are then sent back to the field, to trace and recover Iraqi assets worldwide, as well as secure information concerning insurgency financing. Where appropriate, we provide leads to foreign governments for follow-up and freezing of hidden Iraqi assets.

This approach is designed to produce new leads on an ongoing, interagency basis, and helped us pierce the complex layers of transactions involved in the international flow of Iraqi assets. The synergy between the intelligence functions, the Department of Defense, and the Treasury components has led to concrete results in the field.

The international and interagency issues I have just covered offer only a snapshot of the important U.S. government and international work that has taken place and is still underway to find and return Iraqi funds to the Iraqi people, and to identify insurgency financing. When we turn to consider the sophistication of Saddam Hussein's tactics to exploit OFF, we can more fully appreciate the difficulty of our work and the significance of our accomplishments.

### **OFF (OFF) Program – Treasury's Role**

It bears mentioning what Treasury's role has been with respect to the OFF Program. As noted above, the United States and the international community acting through the United Nations, established the OFF Program and permitted companies to do business with Iraq under that program and appropriate licensing. A recounting of Treasury's involvement with the OFF Program may be helpful in the context of this hearing.

Following the Iraqi invasion of Kuwait on August 2, 1990, the President, under the International Emergency Economic Powers Act (IEEPA), declared a national emergency and issued Executive Order 12722, blocking all Iraq and Kuwait government-controlled assets within the U.S. and imposing an immediate and comprehensive trade embargo. On August 6, 1990, the UN Security Council adopted UNSCR 661, which imposed sweeping economic sanctions against Iraq and occupied Kuwait. On August 9, 1990, the President issued Executive Order 12724, under the authority of both IEEPA and the UN Participation Act, broadening the U.S. sanctions so that they would fully conform to UNSCR 661. Executive Orders 12722 and 12724 essentially prohibited the exportation and importation of goods, services, and technology; dealing in property of Iraqi origin; transactions related to travel and transportation; performance of contracts; and the commitment or transfer of funds or economic resources to Iraq. OFAC had primary responsibility within the executive branch for implementation of Executive Orders 12722 and 12724.

OFAC administered the sanctions program against Iraq through the Iraqi Sanctions Regulations that implemented Executive Orders 12722 and 12724. 31 CFR § 575.205 prohibited the exportation of any goods, technology or services from the U.S. to Iraq, except for donated articles intended to relieve human suffering that were authorized by OFAC on a case-by-case basis. Under 31 CFR §§ 575.520 and 575.521, U.S. persons could apply to OFAC for authorization to export donated food and donated supplies intended strictly for medical purposes to Iraq. This was the sanctions landscape prior to the institution of OFF.

As this Committee well knows, in April 1996, the UN Security Council adopted Resolution 986 (OFF), which permitted the former Government of Iraq (the "GOI") to sell and export from Iraq two billion dollars worth of petroleum and petroleum products every six months and to purchase and import humanitarian materials and supplies to meet the essential needs of the civilian population in Iraq. All such activities were to be under UN supervision. In December 1996, the

first oil sold under OFF was loaded at the Mina-al-Baker terminal in Iraq. Via Federal register publication of December 11, OFAC amended its Iraqi sanctions regulations to provide statements of licensing policy with respect to OFF. 31 CFR §575.522, for the first time, authorized U.S. persons to enter into executory contracts with the GOI for the purchase of Iraqi-origin petroleum and petroleum products, and to trade in oilfield parts and equipment and civilian goods: including medicines, health supplies and foodstuffs.

U.S. persons were also authorized to enter into executory contracts with third parties outside OFAC's jurisdiction that were incidental to permissible executory contracts with the GOI. U.S. persons, however, were not authorized to engage in transactions related to travel to, or within, Iraq for the purpose of negotiating and signing executory contracts. To mitigate this handicap, OFAC issued a December 12, 2003 clarification, which stated that U.S. persons were authorized to enlist and pay the expenses of non-U.S. nationals to travel to Iraq on their behalf for the purpose of negotiating and signing executory contracts.

U.S. persons who had entered into executory contracts with the GOI for the sale of civilian goods and oilfield parts and equipment were required to submit an application to OFAC for a case-by-case review and approval prior to performance of each contract. As part of the review process, each application was referred to the Department of State for policy guidance as to whether performance of the contract should be authorized, and for forwarding a copy of the contract to the UN 661 Committee for approval of payment upon delivery of the goods to Iraq. OFAC made a final determination with respect to licensing the applicant to perform the terms of that particular contract only after receiving from State a copy of the 661 Committee approval of payment and a separate memorandum from State recommending that a license be issued to the applicant.

Under this OFF regime, OFAC issued approximately 1050 licenses to U.S. persons for various aspects of the OFF program, primarily under three provisions of the Regulations. Sales to the GOI of oilfield parts and equipment and humanitarian aid were subject to licensing under, respectively, 31 CFR §§ 575.524 and 575.525. Three U.S. companies were authorized under § 575.524 to sell oilfield parts and equipment directly to the GOI, and 23 U.S. companies were authorized under § 575.525 to make direct sales to the GOI of humanitarian aid. A total of 48 licenses were issued to these 26 U.S. companies, authorizing performance of sales contracts entered into with the GOI. In addition, nine licenses were issued to U.S. companies, authorizing the performance of contracts previously-approved by the UN 661 Committee for the purchase of Iraqi-origin petroleum or petroleum products directly from the GOI.

Many more U.S. persons were authorized to engage in trade transactions with third country entities that were contractors or subcontractors with the GOI. Under 31 CFR 575.523, OFAC issued 13 licenses to seven U.S. persons for activities that facilitated the purchase of Iraqi oil by third parties. The remaining approximately 1000 licenses authorized transactions by U.S. persons with third parties related to sales to the GOI, or authorized non-U.S. persons to engage in transactions involving U.S.-origin goods or components being supplied to the GOI.

31 CFR § 575.526 provided a general license<sup>1</sup> authorizing U.S. persons to import Iraqi-origin petroleum and petroleum products into the U.S. if the goods in question had been approved for purchase and export from Iraq by the United Nations 661 Committee. In a January 1997 memorandum from OFAC to the U.S. Customs Service (Customs), OFAC recommended that Customs require U.S. importers to provide a copy of the 661 Committee approval for which the petroleum or petroleum products in question comprised all or a part of the original purchase. In addition, OFAC suggested that Customs might request from the importer a brief statement describing the type and amount of the imported products and affirming that, to the best of the importer's knowledge and belief, the imported petroleum or petroleum products comprised all or a portion of the purchase covered in the accompanying UN document. In a memorandum to OFAC dated March 6, 1997, Customs confirmed that it had issued instructions to Customs field offices pursuant to the guidance contained in OFAC's memorandum.

### **Terrorist Financing Connections**

This Subcommittee has asked important and pointed questions about the extent to which monies pilfered by the Iraqi regime from OFF are being used to fund the Iraqi insurgency or terrorist groups. Although I cannot discuss ongoing investigations, it is certainly possible that former Iraqi regime elements, within and outside of Iraq, are using available assets to fund insurgency or terrorist activity. While we do not know the extent to which the former Iraqi regime derived such funds from OFF, we do know that Saddam Hussein and his regime cronies used a variety of illicit schemes, including OFF surcharges and kickbacks, as well as the proceeds of illicit oil smuggling, to profit the regime. It is likely that some of these funds ended up in the coffers that are now available to fuel the Iraqi insurgency and terrorism inside and outside of Iraq. It is this possibility that continues to motivate and drive our analytic, investigatory, and diplomatic efforts to unearth and freeze these assets.

#### *Insurgency Finance Task Force in Iraq*

Following the return of sovereignty to Iraq, insurgency financing has become of paramount concern to the Treasury Department, and we are aggressively addressing it with our interagency and international partners. In addition to fielding our own forensic investigation teams dedicated to identifying, tracing, and recovering Iraqi assets located outside Iraq, as soon as it was formed, we sent an IRS-CI investigatory agent to participate with the FBI and others in the Defense Joint Interagency Task Force on the Iraqi Insurgency, operated by CJTF-7, the Coalition Command Authority in Iraq.

The financial component of this Task Force has been tasked to identify and recover funds that could be used to fuel the Iraqi Insurgency and attack our troops, our Coalition partners, Iraqi officials and police, and innocent Iraqi civilians. More recently, we have deployed teams of IRS-CI agents to the Insurgency Task Force. Since the June 2004 transfer of sovereignty to Iraq, all IRS Agents are working with CJTF-7, and we will continue to rotate in teams of IRS agents to the Insurgency Task Force. The recently-appointed IRS Attaché is likewise heavily engaged in these efforts.

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<sup>1</sup> A general license is a license set forth in the regulations themselves. There is no need to apply for a general license.

The participation of IRS forensic investigators on the Insurgency Task Force provides a valuable opportunity to coordinate our ongoing asset hunt – especially for hidden assets held by or on behalf of Former Regime Elements – with the overlapping insurgency finance investigation. Finding and recovering Iraqi assets, both inside and outside Iraq, is instrumental in keeping this money from being used for nefarious purposes, whether by Iraqi insurgents, terrorists, or other criminals.

### **Working with the Iraqi Interim Government to Focus on Asset Recovery**

Since the June 28 handover of authority to the Iraqis, we have been working intensively with the IIG to continue the search for Iraqi assets and to aggressively attack the financial underpinnings of the insurgency and of terrorists that are attacking U.S. civilians and military personnel in Iraq. We have already shared extensive information culled from our own Iraqi asset “trace and chase” effort, to help the IIG take over primary responsibility for recovering frozen assets and addressing outstanding claims against those assets. We have met with senior Iraqi officials – help them coordinate their asset recovery efforts and to concentrate their attention on high-value engagements. In this regard, we have invited the IIG to send a delegation of financial experts to the U.S. to receive advanced forensic investigation training, with the aim of supporting the IIG’s efforts to trace and recover additional assets both inside and outside Iraq. Our IRS-CI investigators on the ground in Iraq are working in tandem with Iraqi law enforcement colleagues to target insurgency financiers and identify and secure assets that are funding the insurgency.

We are also focused on setting Iraq on the right path to deal with the issues of financial integrity and oversight. Our experience around the world on issues related to money laundering and terrorist financing teaches us that Iraq must develop the strongest possible financial infrastructure – both formal and informal – as quickly as possible. We know that this requires robust anti-money laundering and anti-terrorist financing laws and regulations. All components of the Treasury Department are working with the Departments of Justice and State, the Federal Reserve, the CPA and Iraqi Governing Council and Ministries to put in place mechanisms to protect the Iraqi financial system, including charities, money exchangers and hawaladars, bulk cash couriers, money remitters, and the banking industry itself, from abuse by financial criminals and terrorists. We are also working with the IIG to promote transparency and to combat government corruption, so that the kinds of debaucheries that undermined the OFF program will be less likely to occur.

This entire endeavor has taught us some important lessons and is sending a clear message around the world. First, these efforts provide a model for U.S. interagency cooperation. The use of all of the expertise and tools available to the U.S. government is critical when dealing with complicated matters such as this. Second, we have set a template for launching aggressive international efforts to respond to requests by other countries, or by the international community as a whole, to find and repatriate assets stolen by foreign officials and placed in the international financial system. This effort, in combination with other steps we have taken in this arena, such as the conclusion of the negotiations of the UN Anti-Corruption Convention, will strengthen international mechanisms to locate, seize and return assets stolen by kleptocrats. In addition, Treasury has issued a regulation implementing Section 312 of the USA PATRIOT Act, which requires U.S. financial institutions to guard against accepting the proceeds of foreign corruption

from kleptocrats, their families, and other associated “politically exposed persons” in the first place.

We are not alone in pursuing this type of regulatory requirement. In Switzerland, for example, recent amendments to Swiss anti-money laundering laws and regulations are designed to enhance protections against accepting the proceeds of foreign corruption from politically exposed persons. Additionally, the Financial Action Task Force (FATF), as well as groups of private financial institutions, has addressed the need for financial institutions to guard against accepting funds looted by other countries’ political figures.

The Department of the Treasury is in the process of using these important international steps and the model of the Iraqi asset hunt to broaden efforts to recover funds looted by other despots – as in the case of Charles Taylor. The lessons we have learned, and will continue to learn as the hunt proceeds, are valuable. And we are eager to continue to put them to good use.

All of this sends a clear message to the tyrants of the world. We will find your money and will return it to the people from whom you’ve stolen it.

### **Conclusion**

Every day, we are learning more about the maze of Hussein’s money trails, and every day, we take concerted efforts to get other countries to identify Iraqi assets, transfer the funds that they have already frozen, and keep funds out of the hands of the insurgency or terrorists. The investigation, especially as it turns increasingly to the hidden, unofficial assets, is a time-consuming, laborious, and potentially dangerous task. This is a process that, by its very nature, will take time. We owe a debt of gratitude to the civilians – especially the IRS-CI agents in Baghdad – and our troops on the ground in Baghdad, who are engaged in these worthy and important efforts. We appreciate the support of Congress in these efforts and look forward to working with you.